App. F. IX-4

Previous References

C/S SG-37-1-2

1937. (CS.)

File No. SG-37

Serial Nos. 3-4

Letter References

LR Dep 38 37-39

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Two

Part B for June 1938

SUBJECT.

New rule of practice in substitution of the existing civil Rule of practice 143 dated 1-4-1909

SL-4

To the Registrar, High Court

No P. 5961-D 28-4-38

WD 0295—GPB—22,500—18-8-37

Sanction the proposal of the Hon'ble

20/7/38

5885 p 37

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R. O. C. No. 1134 31-38
Dist

Cubb 1

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore, 5th April *1938.*

GK

Cts 56-37-3

FROM T. Shamiengar,
~~A. Sundararaja Rao~~, Esq., B.A., B.L.,
~~S. Venkata Ranga Iyengar, Esq., B.A., LL.M.~~,
Registrar, High Court of Mysore.

CHIEF SECRETARY. 7. [illegible] 1938 GOVT. OF MYSORE.

B. T. Kesaviengar, Esq., B.A.,
Chief Secretary to the Government of Mysore,
Bangalore.

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SIR,

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In G.O.No.P.1143/Cts.56-37-2, dated 25th August 1937, the Government sanctioned the making of a new sub-rule to Rule 4 of Order III of the Code of Civil Procedure. When sanction was asked for the making of that sub-rule in my letter R.O.C.(X) 355/36-37 of 11th August 1937 it was explained that an object of the sub-rule was to provide that the 'appointment' of a pleader, i.e. his vakalatnama, for proceedings in a suit should be considered to authorize him to obtain the refund of money paid into Court in connection with the suit. The new sub-rule ~~effects~~ effects that object. But unfortunately the attention of the Government was not drawn to the fact that the new sub-rule would have other effects, of which the most important is to enable the pleader to file an appeal in respect of the suit without producing a fresh vakalatnama, which up to that time was necessary. This important change is not only against the provisions of Civil Rule of Practice 143, dated 1st April 1909 (printed as paragraph 16 on page 300 of the Civil Rules of Practice & Circular Orders, Vol.III) but causes some loss to the public revenue when the same pleader appears for the party concerned in the trial and in the appellate Courts. It is very much regretted that the sanction of the Government for the new sub-rule was obtained without these effects of it being properly explained. But it may be mentioned that the new sub-rule is in these respects in accordance with the Code of Civil Procedure as in force in British India. And the loss in revenue is not serious as in a very large proportion of civil appeals a new pleader, who requires a new

vakalatnama, appears for each party in the appellate Court.

But as Order III of the Code has been amended by the introduction of the new sub-rule, it is necessary that Civil Rule of Practice 143 should be amended to make it in ~~concoance~~ Consonance with the new sub-rule. I am accordingly directed to request the sanction of the Government for making a new rule of practice as shown in the appendix to this letter in substitution for Civil Rule of Practice 143. The reference to the Court Fees Act in the new rule is made to prevent any misapprehension that, when a vakalatnama bearing a stamp for Rs.0-8-0 for use in a subordinate Court is used for the purpose of an appeal in the High Court (where a vakalatnama must bear a Court fee stamp or stamps for Rs.2/-) no additional stamp is required.

I am again to express regret that this matter was not properly explained to the Government in the first instance.

I have the honour to be,

Sir,

Your most obedient servant,

T. Ramiengar

REGISTRAR.

MRL

pnk.

Appendix.

One vakalatnama will be sufficient to enable a pleader to appear and act in all the proceedings in a suit in any Court or Courts; but the vakalatnama must be stamped in accordance with the provisions of the Court Fees Act applicable to the Court in which it is used.

J. Sivaramayya
REGISTRAR.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Read:-

Government Order No. P. 1143/Cts. 56-37-2, dated 25th August 1937, sanctioning the addition of a new sub-rule (sub-rule 3) to Rule 4 of Order III of the Code of Civil Procedure so as to cover cases of refund of moneys paid into the Court.

2. Letter No. Roc. 1134 dated 6th April 1938 from the Registrar High Court, requesting in the circumstances explained sanction to make a new Rule of Practice as detailed in the appendix in substitution for the existing Civil Rule of Practice 143 dated 1st April 1909 (printed as paragraph 16 on page 300 of the Civil Rules of Practice and Circular orders, Vol. II).

Order No. P 5961 CS-56-37-4

Bangalore, dated the 28th April 1938.

The above proposal of the High Court is sanctioned.

Chief Secretary to Government.

To

The Registrar, High Court of Mysore.

TRM.2

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Appendix.

One vakalatnama will be sufficient to enable a pleader to appear and act in all the proceedings in a suit in any Court or Courts; but the vakalatnama must be stamped in accordance with the provisions of the Court Fees Act applicable to the Court in which it is used.

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for Chief Secretary to Government.

G. R. S. App. F VI—G 2]

SUBJECT .....

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Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193*

Date of issue .....193 .

Signed by .....

Flag H

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette Kannada Part ?

done 25/11/2

Section Cls

File No. 56-37

Serial No. 4

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read—

G.O. No P 1143 / Cls 56-37-2 Dt 25.8.1937 Sanctioning the addition of a new Sub-rule (Sub rule 3) to Rule 4 of Order III of the Code of ~~Civil~~ Procedure so as to ~~Order thereon.—No.~~ Cover Cases of Refund of Moneys paid into the Court.

2) Letter No RoC 1134 Dt 6.4.1938 from the Registrar High Court, requesting, in the Circumstances explained, Sanction to make a new

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Rule of practice as detailed in the Appendix in substitution for the existing Civil Rule of practice 143. of 1-4-1909 (printed as paragraph 16 on page 300 of the Civil Rules of practice and Circular Orders, Vol II).

Order of

The above proposal of the High Court is sanctioned.

Chief Secretary to Govt

To

The Registrar High Court

List of Enclosure

Copied by

Examined by

WD 0158—GPB—15,000—13-8-34